

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 7/15/2016	(3) CONTACT/PHONE Megan Martin, Planner III / (805)781-4163	
(4) SUBJECT Hearing to consider an interim zoning/urgency ordinance prohibiting the clear-cutting of oak woodlands and limiting the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County, except for development or land use activities complying with certain authorization standards and procedures; exempt from CEQA. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> <li>1. Consider and adopt an interim zoning/urgency ordinance prohibiting the clear-cutting of oak woodlands and limiting the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County, except for development or land use activities complying with certain authorization standards and procedures (Attachment 1) by 4/5 vote.</li> <li>2. Direct staff to provide notice of hearing on August 16, 2016 to consider extending the Native Tree Interim Zoning/Urgency Ordinance pursuant to Government Code Section 65858. The additional hearing would be held before the ordinance expires and will allow the Board to extend the ordinance beyond 45 days, and up to a total of two years, if it chooses to do so at that time.</li> </ol>			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>120 min</u> ) <input type="checkbox"/> Board Business (Time Est. <u>    </u> )			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? N/A	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A    Date: <u>June 21, 2016 (Board direction)</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) All Districts			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Megan Martin, Planner III

VIA: Trevor Keith, Deputy Director, Policies and Programs

DATE: 7/15/2016

SUBJECT: Hearing to consider an interim zoning/urgency ordinance prohibiting the clear-cutting of oak woodlands and limiting the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County, except for development or land use activities complying with certain authorization standards and procedures; exempt from CEQA. All Districts..

## **RECOMMENDATION**

It is recommended that the Board:

1. Consider and adopt an interim zoning/urgency ordinance prohibiting the clear-cutting of oak woodlands and limiting the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County, except for development or land use activities complying with certain authorization standards and procedures (Attachment 1) by 4/5 vote.
2. Direct staff to provide notice of hearing on August 16, 2016 to consider extending the Native Tree Interim Zoning/Urgency Ordinance pursuant to Government Code Section 65858. The additional hearing would be held before the ordinance expires and will allow the Board to extend the ordinance beyond 45 days, and up to a total of two years, if it chooses to do so at that time.

## **DISCUSSION**

### **Background**

On June 21, 2016, after considerable public testimony regarding a recent code enforcement violation involving the removal of an oak woodland, your Board provided general direction to staff to prepare an urgency ordinance in order to protect oak woodlands and native vegetation within the unincorporated areas of the county. Attachment 1 is the recommended interim zoning/urgency ordinance from the Planning Department which prohibits the clear-cutting of oak woodlands and limits the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County

Within recent times, the county has seen a significant desecration of acreage of native trees from development activities. Native trees are an essential component to the fabric of the State of California for its people, environment, and economic well-being. Our heritage and legacy are indivisibly linked with native trees, their majestic beauty, unique community character, and life-giving benefits. Native trees provide habitat for wildlife and other plant species, help clean the air, stabilize the soil, and add value to real property. In San Luis Obispo County, oak woodlands are the quintessential landscape throughout the county and have been culturally significant for thousands of years.

In response to the irresponsible and irreparable damage to oak woodlands and native trees, the Board of Supervisors as the legislative body of the County of San Luis Obispo, has determined that in order to protect the public health, safety, and

welfare, there to be an urgent need for an interim zoning/urgency ordinance prohibiting the clear-cutting of oak woodlands and regulating the removal of native trees.

Staff recognizes that there are potentially hundreds of native tree species that may inhabit our county and each of the species or variety of species may be valued in individual settings or for particular purposes. However, for this ordinance, staff recommends that native trees be limited to the following key species:

Blue oak (*Quercus douglasii*), California bay laurel (*Umbellularia californica*), California sycamore (*Platanus racemosa*), Coast live oak (*Quercus agrifolia*), Interior live oak (*Quercus wislizeni*), Grey pine (*Pinus sabiniana*), Valley oak (*Quercus lobata*), Black oak (*Quercus kelloggii*), and Pacific madrone (*Arbutus menziesii*).

#### Proposed Permitting Procedure / Exemptions

The proposed Native Tree Interim Zoning/Urgency Ordinance contains a prohibition against clear-cutting of oak woodlands, exemptions from land use permits, and land use permit levels for proposed tree removal (not associated with clear-cutting).

Exemptions from land use permits include the following categories: emergency, immediate danger, diseased, utilities and rights-of-way, trimming and pruning, fire safety, agricultural operations, previously approved land use permits and land divisions, non-native trees, and de minimis removal (See "Exemptions" within the Ordinance for full definitions).

When proposed native tree removal has been determined to not be within one of the exemptions listed above, a land use permit must be applied for and approved prior to removal. For tree removal involving up to 10% of the total site canopy, a Minor Use Permit is needed. For tree removal involving more than 10% of the total site canopy, a Conditional Use Permit is necessary. Both of these permits are discretionary and subject to CEQA, and in no case shall more than 25% of a site's total canopy be approved for removal without the preparation of an Environmental Impact Report.

#### Urgency Ordinance Process

Section 65858 of the California Government Code sets forth the circumstances under which a County may adopt an interim zoning ordinance as an urgency measure. This section states in part:

Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption.

An ordinance adopted pursuant to Section 65858 is effective for a period of 45 days from the date of adoption. If notice is published in accordance with California Government Code section 65090 prior to the initial adoption of the interim zoning ordinance, as was done prior to this hearing on July 15, 2016, the Board may, by four-fifths vote, extend the interim ordinance for 22 months and 15 days after notice is similarly provided prior to the hearing at which the extension is enacted. An interim zoning ordinance must contain legislative findings "that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare."

If the interim zoning/urgency ordinance is adopted and extended, staff will begin work on a permanent tree ordinance with the intent of getting the permanent ordinance enacted and effective prior to the expiration of the urgency ordinance (two years from the effective date).

#### OTHER AGENCY INVOLVEMENT/IMPACT

Staff from County Counsel's office, Agricultural Commissioner's Office, Cal Fire, and Planning and Building has participated in meetings about the development of the urgency ordinance.

## **FINANCIAL CONSIDERATIONS**

This staff report was prepared under the Department's current budget. If the Board of Supervisors directs staff to prepare a permanent ordinance, budget and staffing will be determined.

## **RESULTS**

Adoption of the interim zoning/urgency ordinance will establish a Native Tree Interim Zoning/Urgency Ordinance for a period of 45 days that which prohibits the clear-cutting of oak woodlands and limits the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County, except for development or land use activities complying with certain authorization standards and procedures.

This is consistent with providing a safe, healthy and livable community.

## **ATTACHMENTS**

1. Draft Native Tree Interim Zoning/Urgency Ordinance
2. Environmental Determination